

RECEIVED

OCT 12 2005

ROBERT H. ... CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

LAKE CHARLES DIVISION

PARBHUBHAI M. PATEL

: DOCKET NO. 2:05-cv-1375
Section P

VS.

: JUDGE TRIMBLE

DEPARTMENT OF HOMELAND
SECURITY, BUREAU OF
IMMIGRATION & CUSTOMS
ENFORCEMENT, ET AL.

: MAGISTRATE JUDGE WILSON

REPORT AND RECOMMENDATION

Currently before the court is a "Motion to Dismiss" [doc. 10] filed on behalf of the respondents in the above-captioned *habeas corpus* matter. This matter has been referred to the undersigned magistrate judge for review, report, and recommendation in accordance with 28 U.S.C. §636(b)(1)(B).

Petitioner, Parbhubhai M. Patel, filed this petition for writ of *habeas corpus* pursuant to 28 U.S.C. §2241 challenging his continued detention in posts-removal-order custody. In his petition, he states that he has been in post-removal-order custody for more than six months and that there is no significant likelihood of removal in the reasonably foreseeable future.

In light of the facts presented by Petitioner, the court ordered the government to respond to the petition. In its response to the court's order, the government moves to dismiss the petition as moot. In support of this position, the government presents documentation which establishes that the petitioner was released from post-removal-order detention on May 31, 2005 by means of removal from the United States to India. See Government Exhibit A.

Because the summary judgment type evidence before the court establishes that petitioner is no longer in custody, the court finds that his challenge to his post-removal-order detention is now moot and should be dismissed.

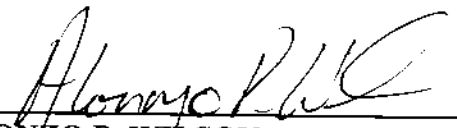
For this reason,

IT IS RECOMMENDED that the "Motion to Dismiss" [doc. 10] be GRANTED and that this petition be DENIED AND DISMISSED WITH PREJUDICE as moot.

Under the provisions of 28 U.S.C. §636(b)(1)(C), the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 12th day of October, 2005.


ALONZO P. WILSON
UNITED STATES MAGISTRATE JUDGE

RECEIVED
DATE 10-12-05
BY CB
TO ART/JTT
TB/SB